

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Insurance
233 Richmond Street
Providence, RI 02903

INSURANCE REGULATION 38

**COMMERCIAL INSURANCE CANCELLATION, NON-RENEWAL AND
PREMIUM OR COVERAGE CHANGES**

Table of Contents

1. Applicability
2. Definitions
3. Cancellation
4. Notice of Nonrenewal
5. Notice of Premium or Coverage Changes
6. Proof of Notice

In accordance with R.I. Gen. Laws § 42-35-3(a), the following regulation relating to Commercial Insurance cancellation, Non-Renewal and Premium or Coverage Changes is hereby promulgated:

Section 1 Applicability

This Regulation shall apply to:

- (1) commercial property insurance policies;
- (2) commercial liability insurance policies other than automobile, aviation, and employers' liability insurance policies; and
- (3) commercial multi-peril insurance policies.

This Regulation shall not apply to reinsurance, excess and surplus lines insurance, residual market risks, workers' compensation insurance, multi-state location risks, policies subject to retrospective rating plans, excess or umbrella policies and such other policies which may in the future be exempted therefrom by the Commissioner of Insurance.

Nothing in this Regulation is intended to abrogate or supersede statutory requirements relative to the policies delineated above.

Section 2 Definitions

For the purpose of this Regulation:

- A. "Renewal" or "to renew" shall mean the issuance of or the offer by an insurer to issue a policy succeeding a policy previously issued and delivered by the same insurer or an insurer within the same group of insurers, or the issuance of a certificate or notice extending the term of an existing policy for a specified period beyond its expiration date.
- B. "Nonpayment of premium" shall mean the failure or inability of a named insured to discharge any obligation in connection with the payment of premiums on a policy of insurance subject to this regulation, whether such payments are payable directly to an insurer or its agent or indirectly payable under a premium finance plan or extension of credit.
- C. "Cancellation" shall mean termination of a policy at a date other than its expiration date.
- D. "Expiration date" shall mean the date upon which coverage under a policy ends. It shall also mean, for a policy written for a term longer than one year or with no fixed expiration date, each annual anniversary date of such policy.
- E. "Nonrenewal" shall mean termination of a policy at its expiration date.

Section 3 Cancellation

A. Permissible Cancellations. If coverage has not been in effect for sixty (60) days and the policy is not a renewal, cancellation shall be effected by giving, mailing or delivering a written notice to the first-named insured at the mailing address shown on the policy at least thirty (30) days before the cancellation's effective date. After coverage has been in effect for more than sixty (60) days or after the effective date of a renewal policy, no insurer shall cancel a policy unless the cancellation is based on at least one of the following reasons:

- (1) Nonpayment of premium;
- (2) Fraud or material misrepresentation made by or with the knowledge of the named insured in obtaining the policy, continuing the policy, or in presenting a claim under the policy;
- (3) Activities or omissions on the part of the named insured which increase any hazard insured against, including a failure to comply with loss control recommendations;

- (4) Change in the risk which increases the risk of loss after insurance coverage has been issued or renewed, including but not limited to an increase in exposure due to regulation, legislation, or court decision;
- (5) Loss or decrease of the insurer's reinsurance covering all or part of the risk or exposure covered by the policy;
- (6) Determination by the Commissioner of Insurance that the continuation of the policy would jeopardize a company's solvency or would place the insurer in violation of the insurance laws of this state;
- (7) Owner or occupant incendiarism;
- (8) Violation or breach by the named insured of any policy terms or conditions;
- (9) Constructive or actual total loss of the insured property;
- (10) Such other reasons as may be approved by the Commissioner of Insurance.

B. Notification of Cancellation

- (1) Notice of cancellation of insurance coverage by an insurer shall be in writing and shall be given, mailed or delivered to the first-named insured at the mailing address as shown on the policy. Notices of cancellation based on Sections 3(A)(2) through 3(A)(10) of this Regulation shall be given, mailed or delivered at least thirty (30) days prior to the effective date of the cancellation. Notices of cancellation based upon Section 3(A)(1) of this Regulation shall be given, mailed or delivered at least ten (10) days prior to the effective date of cancellation. The notice shall state the effective date of cancellation.
- (2) The insurer shall provide the first-named insured with a written statement setting forth the reason(s) for the cancellation where;
 - (a) the named insured requests such a statement in writing; and
 - (b) the named insured agrees in writing to hold the insurer harmless from liability for any communication giving notice of or specifying the reasons for a cancellation or for any statement made in connection with an attempt to

discover or verify the existence of conditions which would be a reason for cancellation under this regulation.

- C. Nothing in this section shall require an insurer to provide a notice of cancellation or a statement of reasons for cancellation where cancellation for non-payment of premium is effected by a premium finance agency or other entity pursuant to a power of attorney or other agreement executed by or on behalf of the insured.
- D. Where applicable, an insurer shall provide copies of all notices contemplated by this section to the agent of record.

Section 4 Notice of Nonrenewal

- A. An insurer may nonrenew a policy if it gives, mails or delivers to the first-named insured at the address shown on the policy, written notice it will not renew the policy. Such notice shall be given, mailed or delivered at least thirty (30) days before the expiration date. If the notice is given, mailed or delivered less than thirty (30) days before expiration coverage shall remain in effect until thirty (30) days after notice is given, mailed or delivered. Earned premium for any period of coverage that extends beyond the expiration date shall be considered pro-rata based upon the previous year's rate. For purposes of this regulation, the transfer of a policyholder between companies within the same insurance group is not a refusal to renew. In addition, changing deductibles, changes in premium, changes in the amount of insurance or reductions in policy limits or coverage shall not be deemed to be refusals to renew.
- B. Notice of nonrenewal shall not be required where:
 - (1) the insurer or a company within the same insurance group has offered to issue a renewal policy; or
 - (2) the named insured has obtained replacement coverage or has agreed in writing to obtain replacement coverage.
- C. If an insurer provides the notice described in Section 4(A), and thereafter the insurer extends the policy for ninety (90) days or less, an additional notice of nonrenewal shall not be required with respect to the extension.
- D. Where applicable, an insurer shall provide copies of all notices contemplated by this section to the agent of record.

Section 5 Notice of Premium or Coverage Changes

- A. An insurer shall provide to the first-named insured at the mailing address shown on the policy, or to the agent of record, written notice of premium increase, change in deductible, reduction in limits or coverage at least thirty (30) days prior to the expiration date of the policy, in the case of notice to the insured or forty-five (45) days in the case of notice to the agent of record. If the insurer fails to provide such notice, the coverage provided to the named insured shall remain in effect until notice is provided or until the effective date of replacement coverage obtained by the named insured, whichever first occurs. For the purposes of this Regulation, notice is considered given thirty (30) days following date of giving of the notice. If the named insured elects not to renew, any earned premium for the period of extension of the terminated policy shall be calculated pro rata at the lower of the current or previous year's rate. If the insured accepts the renewal, the premium increase, if any, and other changes shall be effective the day following the prior policy's expiration or anniversary date.
- B. Section 5(A) shall not apply to:
- (1) Changes in a rate or plan filed and approved by the Commissioner and applicable to an entire class of business.
 - (2) Changes based upon the altered nature or extent of the risk insured.
 - (3) Changes in policy forms filed and approved with the Commissioner and applicable to an entire class of business.

Section 6 Proof of Notice

Proof of the giving, mailing or delivering of notice of cancellation, or of nonrenewal or of premium or coverage changes, to the first-named insured at the address shown in the policy, shall be sufficient proof of notice.

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